

Portugal

Section 1. Respect for the Integrity of the Person, Including Freedom from:

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

There were approximately 50,000 law enforcement officials, including police and prison guards. The ministries of internal administration and justice are primarily responsible for internal security. The Ministry of Internal Administration oversees the GNR, the Foreigners and Borders Service (SEF), and the PSP. The SEF has jurisdiction over immigration and border problems. The PSP has jurisdiction in cities, and the GNR has jurisdiction outside cities. The Judiciary Police are responsible for criminal investigations and report to the Ministry of Justice.

An independent ombudsman chosen by parliament and the IGAI investigates complaints of abuse or mistreatment by police. However, nongovernmental organizations (NGOs) criticized the slow pace of investigations and the lack of an independent oversight agency to monitor the IGAI and the Ministry of Internal Administration.

Arrest Procedures and Treatment While in Detention

The constitution and law provide detailed guidelines covering all aspects of arrest and custody, and authorities generally followed the guidelines. Persons can be arrested only on a judicial warrant, except that law enforcement officials and citizens may make warrantless arrests when there is probable cause that a crime has just been or is being committed, or that the person to be arrested is an escaped convict or a suspect who escaped from police custody.

Under the law an investigating judge determines whether an arrested person should be detained, released on bail, or released outright.

A suspect may not be held for more than 48 hours without appearing before an investigating judge. Investigative detention for most crimes is a maximum of four months; if a formal charge is not filed within that period, the detainee must be released. In cases of serious crimes, such as murder, armed robbery, terrorism, violent or organized crime, and of crimes involving more than one suspect, the investigating judge may decide to hold a suspect in detention while the investigation is underway for up to 18 months and up to three years in extraordinary circumstances.

Bail exists, but detainees are not released on their own recognizance. Depending on the severity of the crime, a detainee's release may be subject to various legal conditions.

Detainees have the right to legal counsel from the time of arrest, but police did not always inform detainees of their rights. In the

report on its 2008 visit, the CPT stated that “facts found during the visit...clearly indicate that few detained persons have an effective right of access to a lawyer during police custody.” The government assumed legal costs for indigent detainees.

A suspect in investigative detention must be brought to trial within 14 months of being charged formally. If a suspect is not in detention, there is no specified deadline for going to trial.

Pretrial Detention: Lengthy pretrial detention remained a problem. As of October 15, 2,412 individuals (19.6 percent of the prison population) were in pretrial detention, a decrease from the previous year. The average detention time was eight months; approximately 20 percent of pretrial detainees spent more than one year in incarceration. Lengthy pretrial detention was usually due to lengthy investigations and legal procedures, judicial inefficiency, or staff shortages. If a detainee is convicted, pretrial detention counts against his prison sentence. If found innocent, a detainee has the right to request compensation.

Amnesty: In December the president granted one reduction of prison sentence and one revocation of the penalty of expulsion from the country for one foreigner. There were 225 requests.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice.

Observers, including the media, business corporations, and legal observers, estimated the backlog of cases awaiting trial to be at least a year.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. All defendants are presumed innocent. Jury trials are rare in criminal cases. When the crime in question is punishable by a prison sentence whose maximum limit is more than eight years, either the public prosecutor or the defendant may request a jury trial. Juries consist of three judges and four public members.

Trials are public. Defendants have the right to be present at their trial and to consult with an attorney upon arrest, at government expense if necessary. They can confront and question witnesses against them, present evidence on their own behalf, and have access to government-held evidence. Those convicted have the right of appeal. The law extends these rights to all citizens and foreign residents.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Court Decisions

The country is subject to the European Court of Human Rights (ECHR) under the European Convention on Human Rights. It

complied with the court's decisions.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. All persons, both citizens and foreign residents, have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation, and they could appeal decisions to the ECHR. Civil cases do not have jury trials. There are administrative as well as judicial remedies for alleged wrongs.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, disability, language, and social status, and the government effectively enforced these prohibitions.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There were no official or other reports of societal discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS.